

Illinois law requires a Certificate of Resale to contain the information set out in 86 Ill. Adm. Code 130.1405(b). (This is a GIL.)

November 28, 2000

Dear Xxxxx:

This letter is in response to your letter dated October 10, 2000. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), which can be found on the Department's website at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

In your letter, you have stated and made inquiry as follows:

We are writing to request a written opinion concerning good faith acceptance of an Illinois resale certificate from our manufacturing customers. We respectfully request clarification regarding an acceptable product description contained within the Illinois State certificate of resale CRT-61, Line 6.

### **Facts**

1. COMPANY is a STATE Corporation, headquartered in the STATE.
2. COMPANY is engaged in the wholesale and retail chemical distribution business.
3. COMPANY has two locations within the state of Illinois as follows: CITY1 and CITY2.
4. COMPANY is licensed in Illinois under permit number #####.

### **Issue**

Customers purchase a wide variety of chemicals and products from COMPANY that are intended ingredient or component parts of manufactured goods that will be subsequently resold. In many instances these manufactured goods, sold by our customers, contain proprietary mixtures and formulas. Therefore, it is necessary for COMPANY to accept its customer's resale certificate in good faith when the customer specifies that all the items purchased become a part of the product that is ultimately resold in the customer's normal course of business. Because the customer can NOT properly provide more accurate detailed information due to proprietary laws and trademarks we must rely upon the customer's information as presented.

Consequently, COMPANY respectfully requests that verbiage such as 'All chemicals purchased will be physically incorporated into items to be subsequently resold' be acceptable in relieving COMPANY from the collection of your state sales or use taxes.

### **Answer requested**

A description of items purchased '*All chemicals purchased will be physically incorporated into items to be subsequently resold*' is valid description to correctly provide corroborative evidence that all purchases are made for intended subsequent resale purposes.

### **Analysis**

#### **Resale**

A **description** of the product to be purchased is an acceptable element of a valid Illinois Resale Certificate.

#### ***ILL Admin. Code Reg. § 130.1405.(B), (C):***

- (B) A Certificate of Resale is a statement signed by the purchaser that the property purchased by him is purchased for purposes of resale. Provided that this statement is correct, the Department will accept Certificates of Resale as prima facie proof that sales covered thereby were made for resale. In addition to the statement, a Certificate of Resale must contain:
  - 1) The seller's name and address;
  - 2) The purchaser's name and address;
  - 3) A **description** of the items being purchased for resale; (*Emphasis added*)
  - 4) Purchaser's signature and date of signing;
  - 5) Registration Number, Resale Number, or Certificate of Resale to Out-of-State Purchaser
- C) If all of a purchaser's purchases are for resale, a purchaser may provide a blanket Certificate of Resale to a seller.

#### ***ILL Admin. Code Reg. § 130.120.(C):***

The tax does not apply to receipts from sales:  
of tangible personal property for purposes of resale in any form as tangible personal property, provided that the purchaser (except in the case of an out-of-State purchaser who will always resell and deliver the property to his customers outside Illinois) has an active registration number or active resale number from the Department and gives such number to the vendor in connection with **certifying to the vendor that the sale to such purchaser is nontaxable on the ground of being a sale for resale;** (*Emphasis added*)

#### ***ILL Admin. Code Reg. § 130.201.(a)(1):***

'Sale at retail' means any transfer of the ownership of or title to tangible personal property to a purchaser, for the purpose of use or consumption, and not for the purpose of resale in any form as tangible personal property to the extent not first

subject to a use for which it was purchased, for a valuable consideration, provided that the property purchased is deemed to be purchased for the purpose of resale, despite first being used, **to the extent to which it is resold as an ingredient of an intentionally produced product or byproduct of manufacturing.** Transactions whereby the possession of the property is transferred but the seller retains the title as security for payment of the selling price shall be deemed to be sales. *(Emphasis Added)*

### **Manufacturer**

In the state of Illinois, manufacturers may purchase, exempt from sales tax, raw materials becoming **an ingredient of an intentionally produced product or byproduct of manufacturing.**

### ***ILL Admin. Code Reg. § 130.210.(b):***

Sales of tangible personal property, which property, to the extent not first subjected to a use for which it was purchased, as an ingredient or constituent, goes into and forms a part of tangible personal property subsequently the subject of a 'sale at retail', are not sales at retail as defined in the Act, provided that the property purchased is deemed to be purchased for the purpose of resale, despite first being used, to the extent to which it resold as an ingredient of **an intentionally produced product or byproduct of manufacturing.** For this purpose, slag produced as an incident to manufacturing pig iron or steel and sold is considered to be an intentionally produced byproduct of manufacturing. *(Emphasis added)*

COMPANY requests a written opinion that it may accept a Illinois resale certificate with the above listed description of the items being purchased for resale as a valid general description as required under Reg. § 130.1405.(B).

Thank you for your prompt consideration of this request. If any additional information is required or if you have any questions, please contact #####. If a decision inconsistent with this request is considered, a conference is requested prior to the finalization of such decision.

As stated in your letter, Illinois law requires a Certificate of Resale to contain the information set out in 86 Ill. Adm. Code 130.1405(b), enclosed. A Certificate of Resale is a statement signed by the purchaser that the property purchased by him is purchased for purposes of resale. Provided that this statement is correct, the Department will accept Certificates of Resale as prima facie proof that sales covered thereby were made for resale. In addition to the statement, a Certificate of Resale must contain:

- 1) The seller's name and address;
- 2) the purchaser's name and address;
- 3) a description of the items being purchased for resale;
- 4) purchaser's signature, or the signature of an authorized employee or agent of the purchaser, and date of signing;
- 5) Registration Number, Resale Number, or Certification of Resale to Out-of-State Purchaser

- A) purchaser's registration number with the Illinois Department of Revenue;  
or
- B) purchaser's resale number issued by the Department of Revenue; or
- C) a statement that the purchaser is an out-of-State purchaser who will sell only to purchasers located outside the State of Illinois.

The third requirement in this regulation is intended to identify the product that you are selling for resale. The chemical you are selling should be described. It is not necessary for your customer to identify the product into which the chemical is going to be incorporated. Under the regulation, your customer is required to provide a short statement indicating that the item is being purchased for resale. The statement that you propose in your letter is sufficient for that purpose.

I hope this information is helpful. The Department of Revenue maintains a website, which can be accessed at [www.revenue.state.il.us](http://www.revenue.state.il.us). If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Melanie A. Jarvis  
Associate Counsel

MAJ:msk  
Enc.